



North Carolina Department of Environment and Natural Resources  
Division of Marine Fisheries

Beverly Eaves Perdue  
Governor

Dr. Louis B. Daniel III  
Director

Dee Freeman  
Secretary

**MEMORANDUM**

**To: Marine Fisheries Legislative Study Committee**  
**From: Louis B. Daniel III, Director**  
**N.C. Division of Marine Fisheries**  
**Date: Feb. 2, 2012**  
**Re: Fisheries Reform Act Modifications**

---

In 1997, the General Assembly passed the Fisheries Reform Act (S.L. 1997-400) - a law that restructured the way North Carolina handled its fisheries resources by requiring long-term, science-based, strategies to manage the state's coastal fisheries and the important habitats that support those fisheries. The preamble of the Act stated the General Assembly "recognizes the need to protect our coastal fishery resources and to balance the commercial and recreational interests through better management of these resources."

In addition to requiring management plans for the state's economically significant fisheries and coastal habitat, the new law also reorganized the Marine Fisheries Commission, established a system of stakeholder advisory committees, restructured the commercial licensing system, created the Recreational Commercial Gear License and increased civil penalties for law enforcement violations.

The provisions of the Act moved the state away from piece-meal, reactive management to more proactive, long-term management strategies, driven by high-quality data and sound science. While the foundation of the Act is sound, modifications are needed to increase the efficiency and effectiveness of the fisheries management process. Proposed modifications are listed below and fall into the following categories:

- Marine Fisheries Commission
- Marine Fisheries Commission Advisory Committee Consolidation
- Fishery Management Plans
- Joint Legislative Commission on Governmental Operations Review of Fishery Management Plans
- Limited Entry
- Licenses
- License and Permit Fees
- Civil Penalties
- Coastal Habitat Protection Plan
- Protected Species

### **Marine Fisheries Commission**

- **G.S. 143B-289.54.(a) Marine Fisheries Commission** – Require representation of :
  - A for-hire (charter) industry participant to sit in the recreational industry seat; and
  - Require at least two of the commercial seats be active (on-the-water) Standard Commercial Fishing License holders. Possibly use the Standard Commercial Fishing License Eligibility Requirements set out in 15A NCAC 03O .0404 to determine a threshold.

### **Marine Fisheries Commission Advisory Committee Consolidation**

- **G.S. 143B-289.57 (b) Marine Fisheries Commission Advisory Committees** - Combine the existing Shellfish and Crustacean advisory committees into one committee named Shellfish/Crustacean Advisory Committee.
- **G.S. 143B-289.57 (e) Marine Fisheries Commission Advisory Committees** - Combine the existing four regional advisory committees (Northeast, Central, Southeast and Inland) into two regional committees:
  - The Northern Advisory Committee, encompassing areas from the Virginia line south through Hyde/Pamlico counties and any counties to the west; and
  - The Southern Advisory Committee, encompassing areas from Carteret County south to South Carolina line and any counties to the west.

### **Fishery Management Plans**

- **Amend G.S. 113-182.1 to read:**

“(5) Specify a time period, not to exceed two years from the date of the adoption of the plan, to implement measures to end ~~for ending~~ overfishing. ~~This subdivision shall only apply to a plan for a fishery that is not producing a sustainable harvest. This subdivision shall not apply if the Fisheries Director determines that the biology of the fish, environmental conditions, or lack of sufficient data make implementing the requirements of this subdivision incompatible with professional standards for fisheries management.~~

(6) Specify a time period, not to exceed 10 years from the date of the adoption of the plan, for achieving a sustainable harvest. This subdivision shall not apply if the Fisheries Director determines that the biology of the fish, environmental conditions, or lack of sufficient data make implementing the requirements of this subdivision incompatible with professional standards for fisheries management.

(7) Include a standard of at least fifty percent (50%) probability of achieving sustainable harvest for the fishery or fisheries. This subdivision shall not apply if the Fisheries Director determines that the biology of the fish environmental conditions, or lack of sufficient data make implementing the requirements of this subdivision incompatible with professional standards for fisheries management.”

### **Joint Legislative Commission on Governmental Operations Review of Fishery Management Plans**

The requirement to have the Joint Legislative Commission on Governmental Operations review and comment on fishery management plans can significantly delay final adoption and implementation of the plans.

- **Amend G.S. 113-182.1(e) Fishery Management Plans** - Remove the Joint Legislative Commission on Governmental Operations from FMP review process.

### **Limited Entry**

- **Amend G.S. 143B-289.52(d1) Limited Entry** – The existing language is too restrictive and authority needs to be broadened to allow more flexibility. Also, add language that allows the Division of Marine Fisheries to charge fees to recover license and permit costs.

### **Licenses**

- **G.S. 113-174.3 For-Hire Blanket Coastal Recreational Fishing License** – Expand to include three new proposed licenses (Captains Blanket CRFL, Vessel Blanket CRFL, Vessel Non-blanket CRFL) and establish associated fee structure, including an increase in nonresident license fees.
- **G. S. 113-168.6 Commercial Fishing Vessel Registration** – Amend to require all for-hire vessels to be commercially registered and establish a commercial and a For-Hire endorsement for each registered vessel in order to differentiate their intended use.
- **G.S. 113-169.2 Shellfish License for N.C. residents without a Standard Commercial Fishing License** – The \$25 Shellfish license should only cover hand harvest, not the mechanical harvest.
- **G.S. 113-169.5(b) Land or sell license** – Close loop hole that disadvantages N.C. fishermen. The \$200 Land or Sell license allows vessels homeported in another state to land and sell fish harvested in federal waters. N.C. residents with their vessel registered or homeported in North Carolina must qualify for a Standard Commercial Fishing License to conduct the same activities. This rule minimizes requirements for nonresidents and disadvantages N.C. fishermen.
- **G.S. 113-169.4 - Ocean Fishing Piers and 113-174.4 Ocean Fish Pier Blanket CRFL** – Currently ocean fishing piers are assessed two license fees if they elect to obtain the Ocean Fishing Pier Blanket Coastal Recreational Fishing License (CRFL). The Ocean Pier license is mandatory, while the CRFL Pier Blanket license is voluntary, although all current piers have elected to purchase it. There is no administrative advantage for each pier to have two licenses. Suggest providing blanket privilege on Ocean Fishing Pier and combining fees (to total \$4.50 per linear foot of pier).
- **G.S. 113-174(4) Definitions** – Include recreational harvest of shellfish and crabs under Coastal Recreational Fishing License.
- **G.S. 113-172(a) License agents** – Designating an agent in each county is impractical and out of date – remove this requirement.

### **License and Permit Fees**

The Division of Marine Fisheries has not had an increase in the cost of commercial licenses since 1999. Additionally, there are permits and licenses that are issued free of charge to allow fishermen to conduct business in North Carolina. An increase in the cost of licenses is needed to cover increasing administrative costs of implementing licenses and for federally mandated observer programs currently being funded by appropriations.

Through the sea turtle legal settlement, the division is required to provide observer coverage in order to allow large-mesh gill net fisheries to operate in internal waters. Observers have also been required in the blueline tilefish fishery and it is anticipated in the future that more observers will be mandated. The Division of Marine Fisheries should be allowed to recoup the cost of the observer program either

through an increase in license fees as described above or through the authority to develop a permit for affected fisheries to recoup these costs.

### **Civil Penalties**

- Allow investigative costs to be recouped by the Division of Marine Fisheries.

### **Coastal Habitat Protection Plan**

- **G.S. 143B-279.8. Coastal Habitat Protection Plans:**
  - (a) - change the word critical to coastal and add a (5) – Restore subtidal oyster beds in Pamlico Sound, due to the large reduction of this habitat over time and its importance as both fish habitat and fishery.
- (a)(1) - as worded, it lists habitat types, water quality classifications, and ecological designations. The CHPP is organized with six habitats. Other things like spawning grounds, nursery areas, estuarine or aquatic endangered or threatened species are addressed within these six habitats. Modify to say: “Describe, map, and classify habitats, including shell bottom, submerged aquatic vegetation, ocean hard bottom, wetlands, soft bottom, and water column.”
- (a)(2) - at end of sentence add “ ... including but not limited to information on nursery areas, spawning grounds, endangered or threatened species, and outstanding resource waters.”
- (b) - WRC has since been added to the CHPP Steering Committee. They should be added throughout this document, and where it refers to three commissions, change to four commissions. The six-member review committee should be changed to the eight- member review committee (CHPP Steering Committee).

### **Protected Species**

- **G.S. 113-189 Protection of sea turtles and ~~porpoises~~ marine mammals** – change the title of this statute and add “injury” to unlawful to willfully take, disturb or destroy.

Jan. 12, 2012